

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

vs.

ERICELDA MARIE GARCIA

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Case No. 4:06cr73
(Judge Schell)

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 8, 2006 to determine whether the defendant violated her supervised release. The defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On September 22, 2005, Defendant was sentenced by the Honorable Micaela Alvarez of the Southern District of Texas to time served followed by a 3-year term of supervised release for the offense of Accessory After the Fact. On September 22, 2005, Defendant completed her period of imprisonment and began serving her supervised term. Jurisdiction of the case was transferred to the Eastern District of Texas on March 30, 2006.

On April 20, 2006, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following conditions: (1) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (2) Defendant shall notify the probation officer ten days prior to any

change of residence or employment; and (3) Defendant shall participate in a mental health program as deemed necessary and approved by the probation officer.

The petition alleges that Defendant committed the following acts: (1) Defendant failed to report as directed on December 5, 2004 [sic] and December 30, 2005; (2) Defendant moved to a friend's residence on November 30, 2005, but failed to notify the probation officer of her new address; (3) Defendant failed to notify her probation officer that her employment at Kohl's had been terminated; and (4) Defendant failed to attend mental health treatment as directed at Summit Counseling in Richardson, Texas during the months of December 2005 and January 2006.

Prior to the Government putting on its case, Defendant entered a plea of true to all violations. At the hearing, the Court recommended that Defendant's supervised release be revoked.

RECOMMENDATION

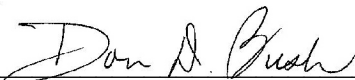
The Court recommends that the District Court revoke Defendant's supervised release and that Defendant be committed to the custody of a halfway house, as soon as an opening can be found, for a term of 180 days.

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.A. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations

and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 8th day of May, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE